

D-1

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

July 8, 2010

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

09KD-140

Kauai

Resubmittal After-The-Fact Assignment of Sublease of General Lease No. S-3852, Nextel WIP Lease Corp. dba Nextel Partners, Assignor, to TowerCo LLC Assignee, and the Consent to of the Five (5) years Extension of Sublease to TowerCo LLC. Waimea, Kekaha, Kauai Tax Map Key: (4) 1-2-02: por. 06.

APPLICANT:

Nextel WIP Lease Corp. dba Nextel Partners as Assignor, to TowerCo LLC, as Assignee who address is 1136 Union Mall room 301, Honolulu, Hawaii, 96816.

LEGAL REFERENCE:

Section 171-36(a)(6), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kekaha, Waimea, Kauai, identified by Tax Map Key: (4) 1-2-02: por. 06, as shown on the attached map labeled Exhibit A and B

AREA:

360 Square Feet, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

LEASE CHARACTER OF USE:

Military and scientific purposes of the government, road access and utility right-of-way.

SUBLEASE CHARACTER OF USE:

Telecommunication Equipment purposes.

TERM OF LEASE:

Sixty five (65) years, commencing on August 20, 1964 and expiring on August 19, 2029.

TERM OF SUBLEASE:

5 years, commencing on September 27, 2004 and expiring on September 26, 2009.

ANNUAL RENTAL:

Gratis

ANNUAL SUBLEASE RENTAL:

\$7,200.00 per year from September 27, 2004 to September 26, 2009.
\$1,800.00 per month from September 27, 2009 to September 26, 2014.
(EXHIBIT C)

DCCA VERIFICATION:

SUBLESSOR:

Place of business registration confirmed:	YES <u>NA</u>	NO <u> </u>
Registered business name confirmed:	YES <u>NA</u>	NO <u> </u>
Good standing confirmed:	YES <u>NA</u>	NO <u> </u>

SUBLESSEE:

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Good standing confirmed:	YES

REMARKS:

General Lease S-3852 to the United State of America consists of four (4) tracts of lands and appurtenant road access and utility right-of-way. The term of the lease was for 65 years beginning on August 20, 1964 and expire on August 19, 2029.

The Board at its October 25, 2002 meeting under Item D-5 approved the U.S.A.,

Department of the Navy's request to amended the General Lease S-3852 to allow Subleasing of the demised premises of privately owned telecommunication equipment. As part of the arrangement and because the navy pays no rent the State, all of the revenues collected under the subleases paid to the State.

The Board at its March 12, 2004 meeting under Item D-11 consented to the sublease (license agreement) between the U.S.A., sulessor, and Nextel WIP Lease Corp., dba Nextal Partners, sublessee. The term of the sublease was for five years beginning September 27, 2004 and expiring on September 26, 2009.

By letter dated August 20, 2009, Mr. Pacht, Director for Real Estate Division informed us the in 2008 Nextel WIP Lease Corp., dba Nextal Partners had assigned the sublease (license agreement) to TowerCo LLC. Furthermore, the sublease (license agreement) provided for 3 additional 5-year term extensions. TowerCo is requesting to exercise their right to extend the term for 5 years. (Exhibit D)

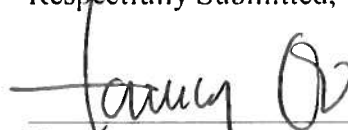
Staff has no objection to the after-the-fact consent to assignment of the sublease (license agreement) and consent to the extension of the sublease term for 5 years.

RECOMMENDATION:

1. Consent to the assignment of sublease under General Lease No. S-3852, Nextel WIP Lease Corp. dba Nextel Partners, as assignor, and TowerCo LLC, as assignee, subject to any applicable conditions cited above which are by this reference incorporated herein and further subject to the following terms and conditions:
 - a. The standard terms and conditions of the most current consent to sublease form, as may be amended from time to time;
 - b. Review and approval by the Department of the Attorney General; and
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Consent to the Five Year Extension of Sublease to TowerCo LLC, subject to any applicable conditions cited above which are by this reference incorporated herein and further subject to the following terms and conditions:
 - a. Review and approval by the Department of the Attorney General; and
 - b. Such other terms and conditions as may be prescribed by the Chairperson

to best serve the interests of the State.

Respectfully Submitted,



Tommy Oi
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



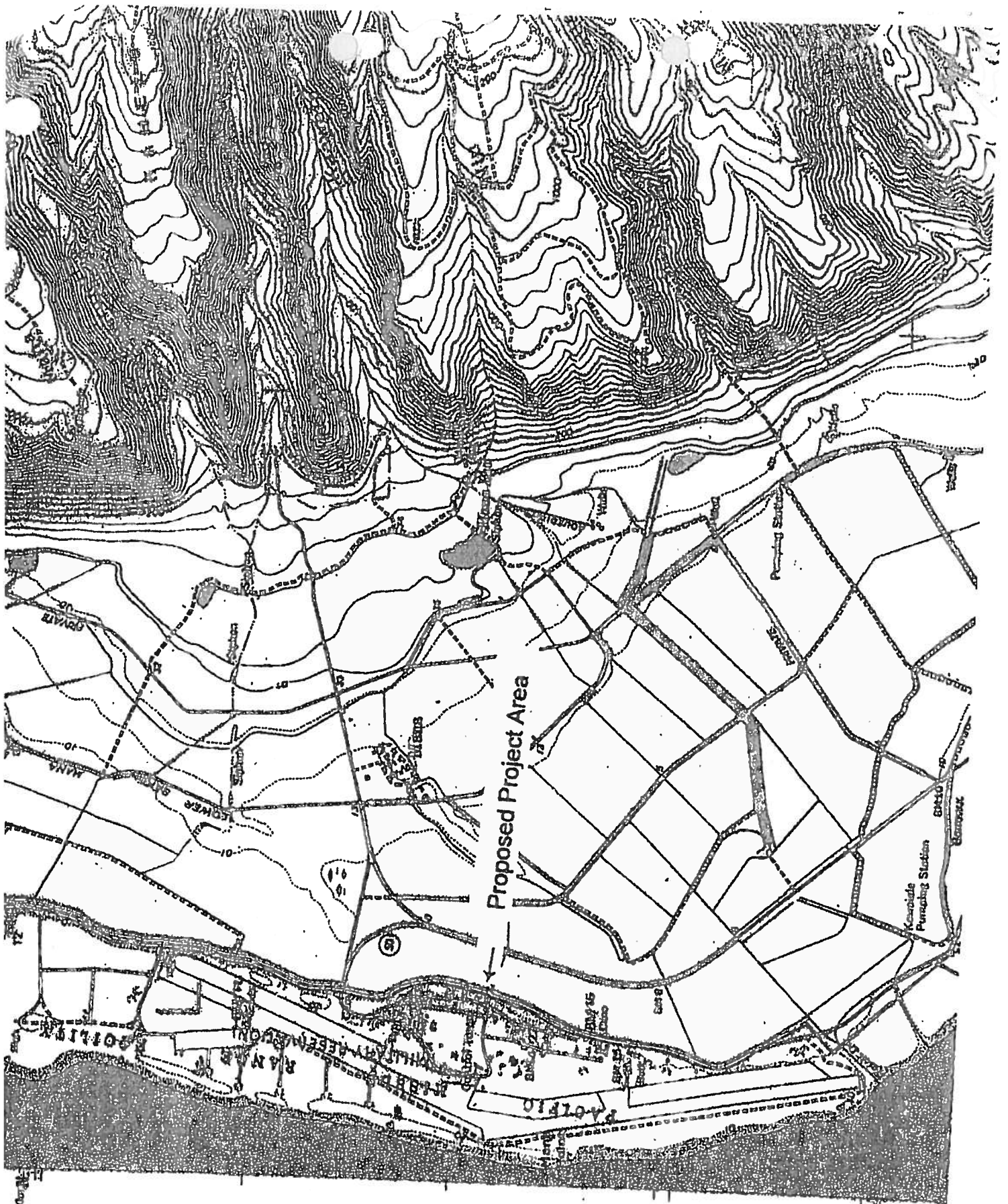


EXHIBIT A

22'0"

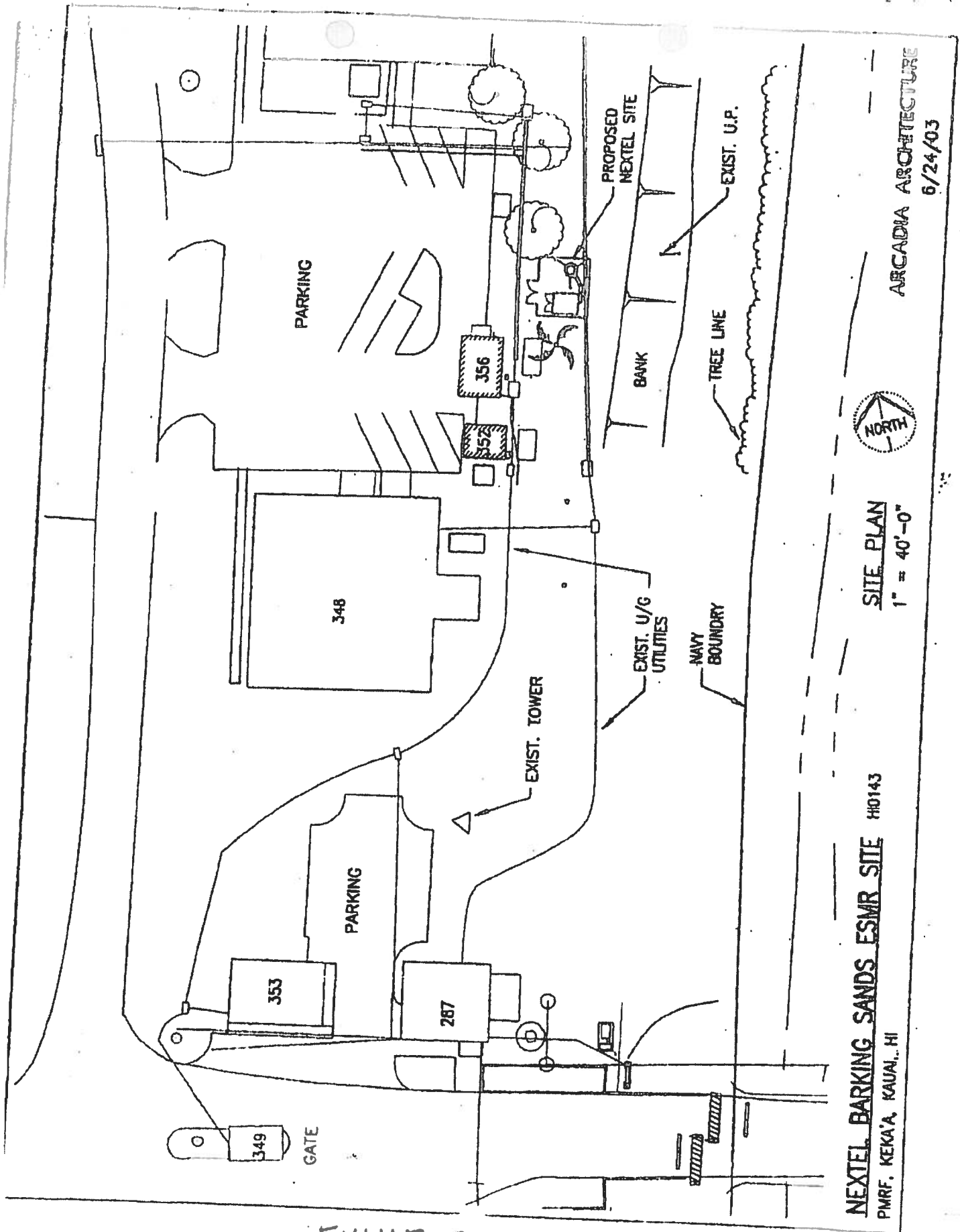


EXHIBIT B

NEXTEL BARKING SANDS ESMR SITE #H0143
 PMRF, KEKA'A, KAUAI, HI

SITE PLAN
 1" = 40'-0"



ARCADIA ARCHITECTURE
 6/24/03

6L3852

LINDA LINGLE
GOVERNOR OF HAWAII



LAURIE THIEN
DIRECTOR
DEPARTMENT OF LAND AND NATURAL RESOURCES



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

March 19, 2010

MEMORANDUM

TO: Laura H. Thielen, Chairperson

THROUGH: Morris M. Atta, Division Administrator *[Signature]*

FROM: Cyrus C. Chen, Real Estate Appraisal Manager *[Signature]*

SUBJECT: In-House Valuation Recommendation Sublease Rent Determination for Sublease Between U.S. Department of the Navy (Lessee Sublessor) and TowerCo LLC (Sublessee)

GL No.:	S-3852
Lessee/Sublessor:	U.S.A., Department of the Navy
Sublessee:	TowerCo LLC
Location:	Waimea, Kekaha, Kauai, HI
Land Area:	360 sq. ft.
Tax Map Key:	(4) 1-2-2: 6 por.
Char. of Use:	Sublease for Telecommunication Equipment Purposes

By letter dated August 20, 2009, Lessee is requesting (1) consent to assignment of the sublease from Nextel WIP Lease Corp. dba Nextel Partners to TowerCo LLC and (2) TowerCo LLC is exercising their right to extend the term of the sublease for 5 years. Lessee is requesting the State to determine the annual sublease rent to be charged TowerCo LLC for the 5-year period.

GL S-3852 was originally a direct gratis lease, which did not allow for subleasing. On October 25, 2002, the Land Board, under agenda item D-5, approved a request from the U.S. Department of the Navy to amend GL S-3852 to allow subleasing of the demised premises for privately owned telecommunication equipment. An amendment to the lease dated March 5, 2003, pertaining to subletting, stated "The Government shall not rent or sublet the whole or any portion of the premises, without the prior written approval of the Board of Land and Natural Resources ("Board"). The Government agrees that all sublease rents shall be payable to the Lessor."

EXHIBIT "C"

Research of communication facility and antenna sites was conducted. This research included interviews with a representative of Verizon Western Region and various appraisers who have experience in appraising similar sites. Lease rent for raw land under these telecom facilities typically range from \$800 to \$1,000 per month and vary depending on location, the landowner, infrastructure, etc.

According to a representative of Verizon Western Region, lease rent to locate on an existing tower, equipment, and infrastructure typically ranges from \$1,200 to \$2,000 per month. Discussions with other landowners such as DHHL have indicated negotiations with commercial telecommunications companies typically start at a rental of \$1,800 per month. Furthermore, a similar analysis performed by staff dated August 14, 2007 for a sublease of 216 sq. ft. to New Cingular Wireless PCS for telecommunications equipment purposes concluded a sublease rent of \$1,800 per month. Research has indicated telecommunications site rents are largely based on who the landowner is and what they can charge, how desirable the site is to the tenant, and infrastructure at the site as opposed to factors such as land area and land value.

Therefore, as of the date of this evaluation, staff recommends the sublease rent to the applicant is recommended to be \$1,800 per month or \$21,600 per annum.

Approved/Disapproved:



Laura H. Thielen, Chairperson



Date

cc: District Branch Files
Central Files

MAR 31 2010



DEPARTMENT OF THE NAVY
NAVAL FACILITIES ENGINEERING COMMAND, PACIFIC
258 MAKALAPA DR., STE. 100
PEARL HARBOR, HAWAII 96860-5134

TO: Central
FROM: KDLO

No. GL-3852

11011

2009 AUG 25 A 11: 35 Ser AM11CB/591

20 AUG 2009

Ms. Darlene Ariola
State of Hawaii
Department of Land and Natural Resources
Land Division
Post Office Box 621
Honolulu, HI 96809

Dear Ms. Ariola:

Our office is currently in the process of preparing an amendment to Navy License Agreement Number N6274204RP00032 between the United States of America, Department of the Navy (the Government) and TowerCo, for continued use of the premises located at Pacific Missile Range Facility (PMRF), near Building 356, Kekaha, Kauai. The land is leased to the Government under General Lease S-3852, as amended, which provides that the Government shall have the right to enter into license agreements for installation of commercial communications equipment in and upon Government-owned facilities within the leased premises. In May 2004, the State of Hawaii provided consent to a license agreement between the Government and Nextel WIP Lease Corp. Nextel WIP Lease Corp assigned Navy License Number N6274204RP00032 to TowerCo LLC in 2008.

The initial term of this License ends on September 27, 2009. However, the License provides for three additional five-year term extensions. TowerCo is requesting to exercise their right to extend the term. Pursuant to paragraph 2 of Navy License Number N6274204RP00032, TowerCo must provide the State with written notification of its intent to extend the term of this License so as to allow for the preparation of an appraisal by the State. TowerCo, for use of land adjacent to Building 356 at PMRF Kauai, currently pays directly to the State of Hawaii a monthly amount of \$600.00 for land rent.

Please advise as to the amount that the State would like to receive for land rent for TowerCo's continued use of the land near Building 356 for a subsequent five-year term. Please also provide us with the address to which TowerCo's payments should be forwarded. The information provided by your office will be placed into the amended license agreement, allowing for the first term extension, and sent to TowerCo for execution.

EXHIBIT "D"

11011

Ser AM11CB/591

20 AUG 2009

Thank you for your attention to this matter. Any questions should be referred to Ms. Claire Bele at 472-1509 or by electronic mail at claire.bele@navy.mil.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis Pacht". The signature is stylized with a large, looped "D" and a cursive "Pacht".

DENNIS PACT

Director

Real Estate Division

EXHIBIT